COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 920 OF 2001 (S/S)

State of Uttaranchal through Executive Engineer, Irrigation Department, Irrigation Research Institute, Roorkee, District Hardwar

..... Petitioner

Versus

1. Presiding Officer, Labour Court, Dehradun
2. Bhopal Singh S/o Vishambhar Singh R/o Village Bagheri, P.O. Mahawatpur, District Hardwar

..... Respondents

Shri Nand Prasad, learned standing counsel for the petitioner.
Shri Anil Kumar Joshi, learned counsel for Respondent No.2.

Dated: 30.08.2005

Hon'ble P.C. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of Certiorari quashing the impugned order dated 24.01.2000 passed by Respondent No. 1-Presiding Officer, Labour Court, Dehradun in Reference Case No.278 of 1999 whereby the learned Labour Court ordered that the Respondent No.2 shall be reinstated in the services with full back wages.

2. Brief facts of the case according to the petitioner are that the Respondent No.2 was appointed in the petitioner's establishment w.e.f. 01.04.1991 on the post of Telephone Line Man and continued to word in the department till 24.08.1995. From 24.08.1995, the services of the Respondent No.2 were terminated by the petitioner without following the provisions of Section 6-N of the U.P. Industrial Disputes Act, 1947. Feeling aggrieved, Respondent No.2 raised the industrial dispute, which was referred in the following terms:-

"Whether the termination of the services of the applicant/workman Shri Bhopal Singh S/o Shri Vishambhar Singh, Telephone Line Man by the employers from 24.08.1995 is justified and/or legal? If no, to which benefit / compensation the applicant/ workman is entitled and to what extent?""

3. After the receipt of the reference, the Labour Court issued notices to the parties to file their written statement/objections. The labour court after considering the oral and documentary evidence led by the parties came to a conclusion that the termination of services of Respondent No.2 was illegal and unjustified and therefore order for his reinstatement with full back wages. Feeling aggrieved, this writ petition has been filed.

4. I have heard learned counsel for the parties and perused the entire material on record.

5. The learned Tribunal has rightly recorded the finding and came to a conclusion that the workman has worked for 240 days in the petitioner's establishment. The workman in support of his claim filed the photocopies of attendance register from July, 1993 upto 24.08.1995 and the representative of the employer also did not challenge the validity of the same. The Tribunal also held that for the purpose of creating disruption, the name of Karanpal has been shown instead of the workman. The employer in support of their claim did not produce the attendance registers. The Labour Court has rightly held that since the workman had completed 240 days in the earlier calendar years preceding twelve months on the date of retrenchment, he was deemed to be in continuous service and hence his termination in

violation of Section 6-N of the Act was illegal and ordered for reinstatement.

6. I do not find any perversity or illegality in the judgment of the learned Tribunal. Therefore, the impugned award does not call for any interference by this Court in exercise of its power under Article 226 of the Constitution of India. Moreover, no error of law in recording concurrent finding to fact by the Labour Court is pointed out.

7. The writ petition is devoid of merit and is dismissed as such. No order as to costs.

(P.C. Verma, J.)

Rajeev Dang